

## REMARKS

Applicant has amended claims 1, 6, 14, and 22-25. Claims 8 and 9 have been canceled. These changes have been made to place the claims in better form for examination and to further obviate the 35 U.S.C. §102(b) and 112 rejections as set forth in the Office Action dated December 16, 2004. It is believed none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections is respectfully requested.

The Examiner has objected to claims 1, 6, 22 and 23 for inclusion of blank lines. Applicant has amended claims 1, 6, 22 and 23 to include the ATCC Accession Number.

The Examiner has rejected claims 1-27 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Applicant has deposited 2500 seeds with the American Type Culture Collection. The date of deposit was August 31, 2004 and the ATCC Accession Number for the deposit is PTA-6181. Additionally, the undersigned avers that:

- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) the viability of the biological material at the time of deposit was tested; and
- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

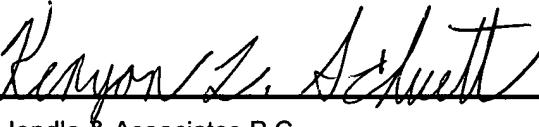
Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 8 and 9 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant has canceled claims 8 and 9. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 8 and 9 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has canceled claims 8 and 9. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 9 under 35 U.S.C. §102(b) as being anticipated by Wallace et al (Crop Sci. 42:2216-2217, 2002). Applicant has canceled claim 9. Withdrawal of this rejection is respectfully requested.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §§102(b) and 112. Reconsideration of this application and early notice of allowance is requested.

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|-------------------------|---|-----------|--------------|-----------------|--------------|
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